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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,134	05/11/2006	Kim Albeck Sorensen	PATRADE	6311
James C Wray Suite 300 1493 Chain Bridges Road McLean, VA 22101			EXAMINER LE, TAN	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 09/21/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/579,134

Applicant(s)

SORENSEN ET AL.

Examiner

TAN LE

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☐ Claim(s) 6/23/2011 is/are pending in the application.
- 5a) Of the above claim(s) 5,7-10,15 and 17 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-4,6,11-14 and 16 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-SB-005)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Applicant's reply filed 6/23/2011 has been placed in the file and was considered by the examiner. This application contains claims numbered 1-17. Claims 11-17 have been added. Claims 5 and 7-10 were withdrawn.

Currently newly added claims 11-14 and 16 are readable to the previous elected species I. Claim 15 called for an image on the plate at the surface of the front side and at the bottom face of the grooves which is directed to Species IV of Figures 37-38; and claims 17 called for the couplings are located on angular reinforcement sections fastened over the length of said plate, which is directed to Species II of Figures 22-23.

Accordingly, **claims 15 and 17 are also withdrawn** from further consideration by the Examiner, 37 CFR 1.142 (b), as being drawn to a non-elected species.

Claims 1-4, 6 and 11-14 and 16 will be examined follows:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 6, 11-13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent No. 5,944,203 to Vlah et al.

Regarding claim 1, Vlah et al. teaches a slatwall merchandise display system comprising a plate (10) (Figs 4, 4A, 6) wherein said plate has a front side with grooves (100) that along a part of their extension contain holes (22, Fig. 6) that open on a back side of said plate, further comprising suspension fittings (32) (Fig. 4A, 7) that extend through said holes for supporting with a first support member (91, 70, 71, Fig. 7) on the back side and with a second support member (30) supporting against the bottom of the groove side (Fig. 7) and which plate has a front side from which the suspension fittings are projecting, and wherein said back side of the plate contains mounts (20, 11) that interact with couples on a support.

Regarding claim 2, Vlah et al. also teaches holes that extend from the back side and partly through the plate to a position approximately at the bottom of the grooves.

Regarding claim 3, wherein the plate is a laminated sheet with the grooves between juxtaposed elongated front side plates.

Regarding claim 6, wherein interacting hook-shaped projections (70) couple the support, the plate, or a combination thereof.

Regarding claims 11-13 and 16 recited limitations similar to those recited in claims 1-3 and 6, are therefore also disclosed by Vlah et al.

Claim Rejections - 35 USC § 103

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlah et al.

As to claims 4 and 14, Vlah et al. teaches all the limitations of the claimed invention except for the width and the depth of the grooves and the spacing between juxtaposed grooves as specifically recited in claims.

It would have been an obvious matter of design choice to provide such width and depth since such a modification would have involved a mere change in size/dimension of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Further, Applicant offers no reasoning as to why the particular width and depth involves more than routine engineering skill or is otherwise beyond the level skill of one of ordinary skill. Accordingly, it would have been obvious to one of ordinary skill in the art, as to make the grooves having the depth and width as claimed, producing no unexpected results.

Response to Arguments

Applicant's amendment and arguments with respect to claims 1-4, 6 and 11-14 and 16 have been considered but are moot in view of the new ground(s) of rejection.

It should be noted that on pages 8-10 of the remarks, Applicant appears to make an argument again between inventions and species while the requirement set forth is one of the election between species not restriction between inventions. Applicant has also restated that Applicant has elected Species I and that Claims 1-7 were elected as reading on the species I. In response from previous office action, the examiner has

pointed out that claims 5 and 7 not readable to the elected species I, and withdrew claims 5 and 7 and claims 8-10 (because Applicant has not elected claims 8-10). In the response filed 6/23/2011, Applicant, however has not argued or made any disagreement on these withdrawn claims 5 and 7 (not that claims 5 and 7 are similar to claims 15 and 17 which are also withdrawn by in this office action) . Therefore the requirement is still deemed proper and is therefore made FINAL as pointed out in the previous office action.

Nevertheless, the crux of Applicant's arguments are: (a) that the inventions as described in the claims are neither independent nor distinct and the restrictions should not be required; (b) no serious burden of searches on the examiner. (c) Section 803 goes on to state under GUIDELINES that an examiner must provide reasons and/or examples to support conclusions. The examiner has never stated that there would be a serious burden on the examiner if restriction were not required. Indeed, there should be no serious burden on the examiner.

In response to (a) "Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species" (see page 3 of an office action mailed 6/03/2010). So far no evidence was submitted by Applicant.

In response to (b) applicants' general allegation of no serious burden on the examiner is unsubstantiated. Applicant has failed to provide the reasons why there is not a serious burden in searches. Nevertheless, the determination of whether or not there is a serious burden involves more than the question of what is the field of search. One must also take into account the burden of having to consider and examine all of the separate issues of patentably distinct species.

In response to (c), contrary to Applicant's arguments, the Examiner has clearly stated the reasons as to why there would be a serious burden on the Examiner (see page 2 of the Office action mailed 6/03/2010.

Applicant is reminded that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN LE whose telephone number is (571)272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on (571) 272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Tan Le/
Primary Examiner, Art Unit 3632
9/15/2011